

REMARKS

Claims 1-12 are now pending in this application. Pursuant to 37 CFR §1.142, Applicants elect, with traverse, Group I (claims 1-24) in response to the restriction requirement set forth in the Office Action. However, elected claims 13-24 have been canceled without prejudice or disclaimer in favor of a divisional application filed concurrently herewith. In addition, non-elected claims 25-30 have also been canceled without prejudice or disclaimer in favor of expedited prosecution of claims 1-12.

Applicants Traverse the Requirement

Insofar as Group II and Group III are concerned, it is believed that claims 25-29 of Group II and claim 30 of Group III are so closely related to elected claims 1-24 of elected Group I that they should remain in the same application. The elected claims 1-24 are directed to a method/apparatus for overwriting data on write-once information recording medium, classified in class 369; the non-elected claims 25-29 are drawn to methods for managing data on a write-once information medium, classified in the same class 369; and the non-elected claim 30 is drawn to a data updating method, classified in the same class 369. There have been no references cited to show any necessity for requiring restriction and, in fact, it is believed that the Examiner would find references containing both method and product claims in the same field of technology. While it is noted that the Examiner has identified different classifications for the product and method claims, it is believed that classification is not conclusive on the question of restriction. It is believed, moreover, that evaluation of both sets of claims would not provide an undue burden upon the Examiner at this time in comparison with the additional expense and delay to Applicants in having to protect the additional subject matter recited by the Group II claims and Group III claims by filing divisional applications.

MPEP '803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)- §806.04(i), §808.01(a) and §808.02). The Examiner has not set forth why there would be a serious burden if restriction is required.

Even if the Examiner considers claims 25-30 to be a separate invention from claims 1-24, the Applicants respectfully request the Examiner to consider claims 25-29 (Group II) and claim 30 (Group III) together with elected claims 1-24 (Group I).

CONCLUSION

Upon review of references involved in this field of technology, and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial restriction requirement, all of the pending claims should be examined in the subject application.

In view of the foregoing amendments, arguments and remarks, all claims are deemed to be in condition for examination. Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney at the Washington DC office at (202) 216-9505 ext. 232.

To the extent necessary, Applicants petition for an extension of time under 37 CFR §1.136. If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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